

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JEFFREY LAYDON, on behalf of himself and all  
others similarly situated,

Plaintiff,

v.

MIZUHO BANK, LTD., THE BANK OF TOKYO-  
MITSUBISHI UFJ, LTD., THE SUMITOMO  
TRUST AND BANKING CO., LTD., THE  
NORINCHUKIN BANK, MITSUBISHI UFJ  
TRUST AND BANKING CORPORATION,  
SUMITOMO MITSUI BANKING  
CORPORATION, RESONA BANK, LTD., J.P.  
MORGAN CHASE & CO., J.P. MORGAN CHASE  
BANK, NATIONAL ASSOCIATION, J.P.  
MORGAN SECURITIES PLC, MIZUHO  
CORPORATE BANK, LTD., DEUTSCHE BANK  
AG, MIZUHO TRUST AND BANKING CO.,  
LTD., THE SHOKO CHUKIN BANK, LTD.,  
SHINKIN CENTRAL BANK, UBS AG, UBS  
SECURITIES JAPAN CO. LTD., THE BANK OF  
YOKOHAMA, LTD., SOCIÉTÉ GÉNÉRALE SA,  
THE ROYAL BANK OF SCOTLAND GROUP  
PLC, ROYAL BANK OF SCOTLAND PLC, RBS  
SECURITIES JAPAN LIMITED, BARCLAYS  
BANK PLC, CITIBANK, NA, CITIGROUP, INC.,  
CITIBANK, JAPAN LTD., CITIGROUP GLOBAL  
MARKETS JAPAN, INC., COÖPERATIEVE  
CENTRALE RAIFFEISEN-BOERENLEENBANK  
B.A., HSBC HOLDINGS PLC, HSBC BANK PLC,  
ICAP PLC, R.P. MARTIN HOLDINGS LIMITED  
and JOHN DOE NOS. 1-50,

Defendants.  
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: Case No. 12-cv-3419 (GBD)  
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: **ECF CASE**  
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: **ORAL ARGUMENT REQUESTED**  
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: **REPLY MEMORANDUM OF LAW IN**  
: **SUPPORT OF ICAP PLC'S MOTION TO**  
: **STAY DISCOVERY PENDING ITS**  
: **MOTION TO DISMISS FOR LACK OF**  
: **PERSONAL JURISDICTION**  
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:

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Date: September 15, 2014

*Attorneys for Defendant ICAP plc*

Defendant ICAP plc respectfully submits this Reply Memorandum of Law in Support of its Motion to Stay Discovery pending this Court's ruling on ICAP plc's Motion to Dismiss for Lack of Personal Jurisdiction. ICAP plc's Reply Memorandum of Law in Support of its Motion to Dismiss is being filed simultaneously with this memorandum.

### **ARGUMENT**

As evidenced in ICAP plc's Memorandum in Support of its Motion to Dismiss for Lack of Personal Jurisdiction and the accompanying Reply Memorandum ("ICAP plc's Jurisdiction Memoranda"), Plaintiff has failed to provide any support for its argument that specific personal jurisdiction over ICAP plc is proper and has failed to make the necessary *prima facie* showing of personal jurisdiction to justify jurisdictional discovery. If Plaintiff cannot meet his burden to demonstrate that jurisdiction exists over ICAP plc, he is certainly not entitled to merits discovery. ICAP plc's motion to stay should be granted solely for this reason.

Plaintiff's *ipse dixit* and false argument that its discovery requests are "neither costly nor burdensome" (*see* Plaintiff's Memorandum of Law in Opposition to Stipulating Defendant's Motion to Dismiss for Lack of Personal Jurisdiction, dated Aug. 29, 2005 (Doc. 367) at 24) is irrelevant if this Court does not have jurisdiction. Whether or not it is true that the requests are not costly and burdensome, ICAP plc should not be subject to discovery prior to a determination of whether it comports with constitutional due process for the Court to exercise personal jurisdiction over it.

The Court should therefore exercise its discretion to stay discovery pending the outcome of the personal jurisdiction motion, which is scheduled to be argued before the Court on September 30, 2014. *See Gandler v. Nazarov*, No. 94-CV-2272, 1994 WL 702004, at \*4 (S.D.N.Y. Dec. 14, 1994) ("It is well-settled that a district court has discretion to halt discovery pending its decision on a motion to dismiss."); *In re Term Commodities Cotton Futures Litig.*, No. 12-CV-5126, 2013 WL 1907738, at \*7

(S.D.N.Y. May 8, 2013) (finding good cause for short-term discovery stay pending oral argument and decision on motion to dismiss).

**CONCLUSION**

For the reasons stated above and in ICAP plc's opening brief, the Court should grant ICAP plc's request for a stay of discovery, including initial disclosures, until the Court issues a decision on ICAP plc's Personal Jurisdiction Motion.

Dated: New York, New York  
September 15, 2014

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